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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN J. BORELLI, SALLY ELIZABETH ELSE,
PATRICK C. DAVIES, RANBIR CHAWLA, and
RANDALL W. CARDINAL

Appeal 2009-009204
Application 09/992,379
Technology Center 3600

Before ANTON W. FETTING, JOSEPH A. FISCHETTI, and
THU A. DANG, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-22. We have jurisdiction under 35 U.S.C. § 6(b). (2002).

SUMMARY OF DECISION

We AFFIRM IN PART.

THE INVENTION

Appellants claim a system and method for providing access to network services. (Specification 1:11).

Claims 1, 6, and 21 reproduced below, are representative of the subject matter on appeal.

1. In a network, a method for provisioning services comprising:
 - receiving a user selection of one or more services that have been deemed to be available to the user via the network;
 - receiving registration information from the user including billing information and a user identifier;
 - authenticating the user identifier with an ISP;
 - communicating the user identifier to each provider of a selected service; and
 - communicating the registration information and information representative of each selected service to a billing engine;

whereafter a user may access each service and be billed appropriately for usage.

6. A system for aggregating product offerings from multiple network and service providers and managing the purchase of any offerings by end customers, comprising:

a catalog of offerings available to end subscribers from multiple providers organized into an aggregated plan for presentation to the subscriber, the product catalog tracking rating guidelines and financial reconciliation rules between providers;

a rating engine for processing usage events that originate from providers which usage events summarize data indicative of customer use of offerings across the multiple providers, wherein the rating engine reconciles between the multiple providers based on the rating guidelines and financial reconciliation rules in the product catalog for use in billing the end customer and reconciling payments to the providers; and

a provisioning subsystem responsible for provisioning and de-provisioning offerings with the providers, the provisioning subsystem using information in the product catalog to create a series of provisioning events that are relayed to the providers which allow the provider to register a purchase of an offering by the end customer with the provider, track customer usage of the offerings, and, in response to the usage, create usage events for processing by the rating engine.

21. A computer readable media having instructions for provisioning services in a broadband network, the instructions performing steps comprising:

receiving a query message from a customer requesting access to the broadband network from a given location;

determining if broadband network access is available to the customer at the given location; and

if broadband network access is available to the potential customer, querying a product catalog to determine offerings available for the access requested; allowing the customer to selected one or more of the offerings for purchase; receiving an identifier from the customer; provisioning the selected offerings from providers of the selected offerings; and synchronizing the identifier received from the customer with the providers of the selected offerings and a rating and billing engine.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Dickinson	US 6,182,054 B1	Jan. 30,2001
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The following rejection is before us for review.

The Examiner rejected claims 1-22 under 35 U.S.C. 103(a) as being unpatentable over Dickinson.

THE ISSUES

Have Appellants shown that the Examiner erred in rejecting claims 1-5, 9-19 on appeal as being unpatentable under 35 U.S.C. § 103(a) over Dickinson on the grounds that a person with ordinary skill in the art would understand that a subscriber of an Internet Service Provider network who selects email service from that Internet Service Provider selects a service that is provided by that ISP network?

Have Appellants shown that the Examiner erred in rejecting claims 6-8 on appeal as being unpatentable under 35 U.S.C. § 103(a) over Dickinson on the grounds that a person with ordinary skill in the art would understand that the rate plan scheduler in Dickinson would allow a service provider to register a purchase of an offering by the end customer with the provider, track customer usage of the offerings, and, in response to the usage, create usage events for processing by the rating engine?

FINDINGS OF FACT

We find the following facts by a preponderance of the evidence:

1. The Specification states: “In an attempt to increase the demand for high bandwidth Internet access, DSL providers have partnered with ISPs whereby ISPs provide customers access to their suite of services. Current implementations are both DSL provider and ISP provider specific.” (Specification 1: 21-23).

2. The Specification states ISPs offer customers a suite of services (e.g., email, web hosting and, most importantly, technical support to facilitate connectivity to the network). (Specification 1:18-19).

3. It is our understanding that subscribers to Internet Service Providers are identified by the ISP by a service provider identifier specific to that user, e.g., using the user email address as a log-on identifier.

4. With respect to claim 6, the Examiner found that Dickinson discloses:

...[A] provisioning subsystem that allows services to be provided to the user and creates usage events for processing by the rating engine (col. 7 line 44+, see Figs. 7-9, inherent in the invention).

The system of Dickinson differs from the claimed invention in that it does not explicitly show the provisioning subsystem to allow the provider to register purchase offerings. However, the provisioning subsystem would be able to store and process a variety of data, including offerings, purchases, returns, etc., and the particular data stored would be a matter of design choice.

(Answer 5).

5. Dickinson discloses entering “simple data” for each rate plan group. (Col. 7, ll. 51-53).

ANALYSIS

We affirm the rejection of claims 1-5, 9-19 and 20-22; and reverse as to claims 6-8.

Initially, we note that the Appellants state that for purposes of this appeal, claims 1-5 and 9-19 stand as a single group, claims 6-8 stand as a single group, and claims 20-22 stand as a single group. (Appeal Br. 4).

Claims 1-5, 9-19.

Appellants argue these claims together as a group. Correspondingly, we select representative claim 1 to decide the appeal of these claims, remaining claims 2-5 and 9-19 standing or falling with claim 1.

Appellants argue that “... the rejection of the claims has neglected to demonstrate where Dickinson discloses, teaches, or suggests the expressly claimed “receiving a user selection of one or more services that have been deemed to be available to the user via the network.” (Appeal Br. 6).

However, we find that the Specification states that it is known that “...ISPs offer customers a suite of services (e.g., email, web hosting and, most importantly, technical support to facilitate connectivity to the network).” (FF 2). We read the claimed network as that of the Internet Service Provider only. Thus, a subscriber of the Internet Service Provider network who selects email service from that ISP meets the claim requirement of *receiving a user selection of one or more services that have been deemed to be available to the user via the network*.

Appellants next argue that the “rejection of the claims has neglected to demonstrate where Dickinson discloses the expressly claimed ‘authenticating the user identifier with an ISP’ and the expressly claimed ‘communicating the user identifier to each provider of a selected service.’”

(Appeal Br. 6). However, Appellants' argument is unpersuasive for the following reasons. First, as stated above, we read the network as that of the Internet Service Provider, and the email service provided by the ISP as the selected service. We thus find that where an Internet Service Provider uses the subscriber's email address as its identifier, for example, (FF 3), that email address/identifier is communicated to the Internet Service Provider's email server in order to correspond to a given user's account.

Claims 6-8.

Independent claim 6 requires *a provisioning subsystem responsible for provisioning and de-provisioning offerings with the providers, the provisioning subsystem using information in the product catalog to create a series of provisioning events that are relayed to the providers which allow the provider to register a purchase of an offering by the end customer with the provider, track customer usage of the offerings, and, in response to the usage, create usage events for processing by the rating engine.*

The Examiner found Dickinson discloses a *provisioning subsystem* in the Usage Plan groups shown in the tables at the bottom of column 7 in the Dickinson reference. However, the Examiner further maintains that although "[t]he system of Dickinson differs from the claimed invention in that it does not explicitly show the provisioning subsystem to allow the provider to register purchase offerings.... the provisioning subsystem would be able to store and process a variety of data, including offerings, purchases, returns, etc." (FF 4). We disagree with the Examiner because it is not

apparent from Dickinson how the rate plan table could be modified to allow the provider to register a purchase of an offerings and create usage events given Dickinson discloses entering only “simple data” e.g., charges, for each rate plan.

Accordingly, we will not sustain the rejection of claim 6. Since claims 7 and 8 depend from claim 6, and since we cannot sustain the rejection of claim 6, the rejection of claims 7 and 8 likewise cannot be sustained.

Claims 20 21 and 22.

Initially, we note that the Appellants argue these claims together as a group. Correspondingly, we select representative claim 21 to decide the appeal of these claims, remaining claims 20 and 22 standing or falling with claim 21.

Appellants’ arguments to claims 20 and 22 address elements which are not present in claim 21¹. Since we choose claim 21 as representative, we find Appellants’ arguments to claim 21 deficient because they do not contain the elements asserted in these arguments. We therefore sustain the rejection of claim 21. Claims 20 and 22 fall with claim 21.

¹ Appellants argue specific limitations present only in claims 20 and 22 stating “the rejection of the claims does not set forth where Dickinson discloses, teaches, or suggests the expressly claimed *“storing a universal customer identifier in a database associated with a billing engine and associating the universal customer identifier with the broadband services.”* Similarly, the rejection of the claims does not set forth where Dickinson discloses, teaches, or suggest the expressly claimed *“synchronizing a local customer identifier at each of the respective service providers with the universal customer identifier.”* (Appeal Br. 8).

CONCLUSIONS OF LAW

We conclude the Appellants have not shown that the Examiner erred in rejecting claims 1-5, 9-22.

We conclude the Appellants have shown that the Examiner erred in rejecting claims 6-8.

DECISION

The decision of the Examiner to reject claims 1-5, 9-22 is
AFFIRMED.

The decision of the Examiner to reject claims 6-9 is REVERSED.

AFFIRM-IN-PART

MP

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